

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NICOLE KESTEN and SCOTT KESTEN,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

OCWEN LOAN SERVICING, LLC;
FEDERAL HOME LOAN MORTGAGE
CORP.; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
DOES 1-10,

Defendants.

Case No. 1:11-CV-6981

Judge James F. Holderman

Magistrate Judge Jeffrey Cole

DEFENDANT OCWEN LOAN SERVICING, LLC'S
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT

COMES NOW defendant Ocwen Loan Servicing, LLC ("Ocwen"), and respectfully moves the Court for an order dismissing plaintiffs Scott and Nicole Kesten's First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

Ocwen respectfully requests an opportunity to present its motion to the Court on December 1, 2011. As explained more fully in the accompanying memorandum of law, plaintiffs' First Amended Complaint fails to allege facts sufficient to establish causes of action under the Cranston-Gonzalez amendments to the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(e), Regulation Z of the Truth In Lending Act, 12 C.F.R. § 226.20(c), and the Illinois Consumer Fraud Act, 815 ILL. COMP. STAT. 505/2, and also fails to allege facts sufficient to establish a cause of action for breach of contract under Illinois law.

Dated: November 28, 2011

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Respectfully submitted,

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**[Proposed] ORDER GRANTING OCWEN LOAN SERVICING, LLC'S
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

AND NOW, the _____ day of _____, 2011, upon consideration
of Defendant Ocwen Loan Servicing, LLC's Motion to Dismiss, it is hereby

ORDERED, that the motion is granted, and

FURTHER ORDERED, that the claims against Ocwen Loan Servicing, LLC set forth in
Plaintiffs' First Amended Complaint dated November 17, 2011, are hereby dismissed.

IT IS SO ORDERED.

BY THE COURT:

HON. JAMES F. HOLDERMAN
UNITED STATES DISTRICT JUDGE